

#234-11 (OAL Decision: Not yet available online)

T.L.J. on behalf of minor child A.J.L., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF PINE HILL, :
CAMDEN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that her child, A.J.L., was not eligible for a free public education in the Pine Hill school district during the 2009-2010 school year. Petitioner asserted that she has resided in Pine Hill since 2005, and that A.J.L. is domiciled with her under a joint custody agreement issued in 2009, which granted her primary physical custody of her children. The respondent Board contended that petitioner is domiciled in Pennsylvania, and sought dismissal of the appeal and reimbursement for counsel fees and other costs “appropriate under the circumstances.” Petitioner testified and presented evidence at an OAL hearing on May 2, 2011, but counsel for respondent Board failed to appear despite having received adequate notice of the proceeding. Respondent Board additionally failed to submit any explanation for its failure to appear.

The ALJ found that: based upon the credible, undisputed and corroborated evidence presented by T.L.J. at the OAL hearing, petitioner does reside in Pine Hill; under a court order issued in December 2009, petitioner has primary physical custody of her children; petitioner has clearly established that A.J.L. is domiciled in the district and is therefore entitled to a free public education in Pine Hill schools; pursuant to *N.J.A.C. 1:1-14.4(d)*, the petitioner is entitled to a decision on the merits based on the proofs presented at hearing since the Board failed to submit an explanation for its failure to appear. Accordingly, the ALJ granted the petitioner’s residency appeal, and denied the Board’s claims for financial reimbursement.

Upon a full and independent review, the Commissioner adopted the Initial Decision as the final decision in this matter.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

June 24, 2011

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PETITIONER,	:	
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	:	
RESPONDENT.	:	

Petitioner challenged respondent’s determination that her son was not eligible for a free public education in its district. A review of the Initial Decision and the record of this matter reveals that petitioner appeared at the May 2, 2011 hearing in the Office of Administrative Law (OAL), and presented evidence which the Administrative Law Judge (ALJ) found sufficient to support her assertion that she is domiciled in petitioner’s district and that she has primary residential custody of her son. The ALJ further found that petitioner and her witness were credible.

Despite adequate notice, neither respondent nor its representative appeared at the OAL hearing. Nor did respondent provide – within a day of the hearing – any explanation for its absence. Thus, there was no evidence before the ALJ to rebut the proofs offered by petitioner. Pursuant to *N.J.A.C. 1:1-14.4(d)*, the ALJ issued an Initial Decision on the merits granting the relief

requested in the petition. Upon independent review, the Commissioner adopts the Initial Decision as the final decision in this case.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: _____

Date of Mailing: _____

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*